IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Crl.Rev.Pet.No. 912 of 1999()

CRA.225/1998 of IVTH ADDL.SESSIONS COURT, ERNAKULAM DT.27.7.1999.
ST.1491/1996 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI DT.11.6.1998.

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REVN. PETITIONER: APPELLANT/ ACCUSED

KISHORE V.R., S/O.RAJAN,
VALATHU HOUSE, PUTHUVAIPPU P.O.,
KOCHI.

BY ADV. SRI.K.A.JALEEL
SRI.T.T.MUHAMOOD

RESPONDENTS: RESPONDENTS/ COMPLAINANT
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1. A.R.UNNIKRISHNAN, S/O. RAJAN,
AZHEEKKAL KADAVIL HOUSE,
VYPIN PO., KOCHI 10.

2. THE STATE OF KERALA, REP.BY
THE PUBLIC PROSECUTOR, HIGH COURTOF KERALA,
ERNAKULAM.

BY ADV. SRI.K.C.ELDHO
BY PUBLIC PROSECUTOR SRI.AMJAD ALI.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.MP. 4221/1999 IN CRL.RP. 912/1999

DISMISSED

18.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.R.P.NO. 912 OF 1999-B

DATED THIS THE 18TH July 2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for three months and to pay a fine of Rs.15,000/- and in default to undergo simple imprisonment for two months.

2. The prosecution case is that the accused borrowed a sum of Rs.15,000/- and towards the discharge of the above liability issued the impugned cheque for R.15,000/- dated 6-6-1996 which when presented got dishonoured for want of funds in the account of the accused. Lawyer notice sent was not replied to nor was the amount repaid.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 and 2, the complainant and the Bank Manager respectively and Exts.P1 to P6. The defence version is that the accused had borrowed only a sum of Rs.5000/- and a blank cheque was issued.

4. It was found that the execution of the cheques stands proved as well as the dishonour of the same for want of funds in the account of accused and the statutory formalities of issuing notice, etc. have been complied with. The statutory presumptions remain unrebutted. In the circumstances, I find no reason to interfere in the findings of the courts below. The conviction is confirmed.

All the same, considering the plea of the counsel for the revision petitioner, the sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.15,000/- to the complainant and in default to undergo simple imprisonment for two months. The revision petitioner is granted two months time to pay the amount of compensation. He shall appear before the Judicial Magistrate of First Class-I, Kochi on 17-9-2007 to receive sentence. The Crl. revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.912 OF 1999-B
ORDER

18-7-2007